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16 Attorneys for Plaintiff  
**LISA KIM MADRIGAL**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

20 LISA KIM MADRIGAL, on behalf of  
herself and those similarly situated,

**Plaintiff,**

vs.

23 HINT, INC., and DOES 1 through 20  
24 inclusive.

#### Defendants.

Case No. 17-cv-02095-VAP-MRW

Complaint Filed: January 17, 2017  
Trial Date: None Set

## **STIPULATED PROTECTIVE ORDER**

1

**STIPULATED PROTECTIVE ORDER**

2

**A. PURPOSES AND LIMITATIONS**

3      Discovery in this action is likely to involve production of confidential,  
4      proprietary, or private information for which special protection from public disclosure  
5      and from use for any purpose other than prosecuting this litigation may be warranted.  
6      Accordingly, the parties hereby stipulate to and petition the Court to enter the  
7      following Stipulated Protective Order. The parties acknowledge that this Order does  
8      not confer blanket protections on all disclosures or responses to discovery and that the  
9      protection it affords from public disclosure and use extends only to the limited  
10     information or items that are entitled to confidential treatment under the applicable  
11     legal principles. The parties further acknowledge, as set forth in section 12.3, below,  
12     that this Stipulated Protective Order does not entitle them to file confidential  
13     information under seal; Civil Local Rule 79-5 sets forth the procedures that must be  
14     followed and the standards that will be applied when a party seeks permission from  
15     the court to file material under seal.

16

**B. GOOD CAUSE STATEMENT**

17     This action is likely to involve trade secrets, customer and pricing lists and  
18     other valuable research, development, commercial, financial, technical and/or  
19     proprietary information for which special protection from public disclosure and from  
20     use for any purpose other than prosecution of this action is warranted. Such  
21     confidential and proprietary materials and information consist of, among other things,  
22     confidential business or financial information, information regarding confidential  
23     business practices, or other confidential research, development, or commercial  
24     information (including information implicating privacy rights of third parties),  
25     information otherwise generally unavailable to the public, or which may be privileged  
26     or otherwise protected from disclosure under state or federal statutes, court rules, case  
27     decisions, or common law. Accordingly, to expedite the flow of information, to  
28

1 facilitate the prompt resolution of disputes over confidentiality of discovery materials,  
2 to adequately protect information the parties are entitled to keep confidential, to  
3 ensure that the parties are permitted reasonable necessary uses of such material in  
4 preparation for and in the conduct of trial, to address their handling at the end of the  
5 litigation, and serve the ends of justice, a protective order for such information is  
6 justified in this matter. It is the intent of the parties that information will not be  
7 designated as confidential for tactical reasons and that nothing be so designated  
8 without a good faith belief that it has been maintained in a confidential, non-public  
9 manner, and there is good cause why it should not be part of the public record of this  
10 case.

11 Here, a second-tier “Highly Confidential – Attorneys’ Eyes Only” designation  
12 is warranted in this case because it will likely involve the production of extremely  
13 sensitive commercial materials that require a higher level of protection and restricted  
14 disclosure. This designation would apply to documents and information containing  
15 HINT’s trade secrets and proprietary information, confidential research, customer-  
16 specific information, supplier information, business plans and strategies, and financial  
17 information including pricing information, sales data, and third parties’ confidential  
18 information. Heightened protection is justified because such documents contain  
19 valuable, confidential commercially sensitive information and HINT would suffer  
20 harm by directly disclosing such information to Plaintiff.

21 **1. DEFINITIONS**

22       1.1   Action: this pending federal law suit.

23       1.2   Challenging Party: a Party or Non-Party that challenges the designation  
24 of information or items under this Order.

25       1.3   “CONFIDENTIAL” Information Or Items: information (regardless of  
26 how it is generated, stored or maintained) or tangible things that qualify for protection  
27 under Federal Rule Of Civil Procedure 26(c), and as specified above in the Good  
28 Cause Statement.

1           1.4    HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES ONLY"

2       Information or Items: "CONFIDENTIAL" Information or Items, that also contain  
3       extremely sensitive business information and/or trade secret information, and as  
4       specified above in the Good Cause Statement, the disclosure of which to another Party  
5       or Non-Party would create a substantial risk of serious harm that could not be avoided  
6       by less restrictive means.

7       1.5    Counsel: Outside Counsel of Record and House Counsel (as well as their  
8       support staff).

9       1.6    Designating Party: a Party or Non-Party that designates information or  
10      items that it produces in disclosures or in responses to discovery as  
11      "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES  
12      ONLY."

13      1.7    Disclosure Or Discovery Material: all items or information, regardless of  
14      the medium or manner in which it is generated, stored, or maintained (including,  
15      among other things, testimony, transcripts, and tangible things), that are produced or  
16      generated in disclosures or responses to discovery in this matter.

17      1.8    Expert: a person with specialized knowledge or experience in a matter  
18      pertinent to the litigation who has been retained by a Party or its counsel to serve as an  
19      expert witness or as a consultant in this Action.

20      1.9    House Counsel: attorneys who are employees of a party to this Action.  
21      House Counsel does not include outside Counsel of Record or any other outside  
22      counsel.

23      1.10   Non-Party: any natural person, partnership, corporation, association, or  
24      other legal entity not named as a Party to this action.

25      1.11   Outside Counsel Of Record: attorneys who are not employees of a party  
26      to this Action but are retained to represent or advise a party to this Action and have  
27      appeared in this Action on behalf of that party or are affiliated with a law firm which  
28      has appeared on behalf of that party, and includes support staff.

1           1.12 Party: any Party to this Action, including all of its officers, directors,  
2 employees, consultants, retained experts, and Outside Counsel of Record (and their  
3 support staffs).

4           1.13 Producing Party: a Party or Non-Party that produces Disclosure or  
5 Discovery Material in this Action.

6           1.14 Professional Vendors: persons or entities that provide litigation support  
7 services (e.g., photocopying, videotaping, translating, preparing exhibits or  
8 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
9 and their employees and subcontractors.

10          1.15 Protected Material: any Disclosure or Discovery Material that is  
11 designated as “CONFIDENTIAL” OR “HIGHLY CONFIDENTIAL -- ATTORNEYS’  
12 EYES ONLY.”

13          1.16 Receiving Party: a Party that receives Disclosure or Discovery Material  
14 from a Producing Party.

15          **2. SCOPE**

16          The protections conferred by this Stipulation and Order cover not only  
17 Protected Material (as defined above), but also (1) any information copied or extracted  
18 from Protected Material; (2) all copies, excerpts, summaries, or compilations of  
19 Protected Material; and (3) any testimony, conversations, or presentations by Parties  
20 or their Counsel that might reveal Protected Material. Any use of protected material at  
21 trial shall be governed by the orders of the trial judge. This order does not govern the  
22 use of Protected Material at trial.

23          **3. DURATION**

24          Even after final disposition of this litigation, the confidentiality obligations  
25 imposed by this Order shall remain in effect until a Designating Party agrees  
26 otherwise in writing or a court order otherwise directs. Final disposition shall be  
27 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with  
28 or without prejudice; and (2) final judgment herein after the completion and

1 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,  
2 including the time limits for filing any motions or applications for extension of time  
3 pursuant to applicable law.

4 **4. DESIGNATING PROTECTED MATERIAL**

5 **4.1 Exercise Of Restraint And Care In Designating Material For Protection.**  
6 Each Party or Non-Party that designates information or items for protection under this  
7 Order must take care to limit any such designation to specific material that qualifies  
8 under the appropriate standards. The Designating Party must designate for protection  
9 only those parts of material, documents, items, or oral or written communications that  
10 qualify so that other portions of the material, documents, items, or communications  
11 for which protection is not warranted are not swept unjustifiably within the ambit of  
12 this Order.

13 Mass, indiscriminate, or routinized designations are prohibited. Designations  
14 that are shown to be clearly unjustified or that have been made for an improper  
15 purpose (e.g., to unnecessarily encumber the case development process or to impose  
16 unnecessary expenses and burdens on other parties) may expose the Designating Party  
17 to sanctions.

18 If it comes to a Designating Party's attention that information or items that it  
19 designated for protection do not qualify for protection, that Designating Party must  
20 promptly notify all other Parties that it is withdrawing the inapplicable designation.

21 **4.2 Manner And Timing Of Designations.** Except as otherwise provided in  
22 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise  
23 stipulated or ordered, Disclosure or Discovery material that qualifies for protection  
24 under this order must be clearly so designated before the material is disclosed or  
25 produced.

26 Designation in conformity with this Order requires:

27 (a) for information in documentary form (e.g., paper or electronic  
28 documents, but excluding transcripts of depositions or other pretrial or trial

1 proceedings), that the Producing Party affix at a minimum, the legend  
2 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES ONLY"  
3 (hereinafter "CONFIDENTIAL legend"), to each page that contains protected  
4 material. If only a portion or portions of the material on a page qualifies for  
5 protection, the Producing Party also must clearly identify the protected portion(s)  
6 (e.g., by making appropriate markings in the margins).

7 A Party or Non-Party that makes original documents available for inspection  
8 need not designate them for protection until after the inspecting Party has indicated  
9 which documents it would like copied and produced. During the inspection and before  
10 the designation, all of the material made available for inspection shall be deemed  
11 "CONFIDENTIAL." After the inspecting Party has identified the documents it wants  
12 copied and produced, the Producing Party must determine which documents, or  
13 portions thereof, qualify for protection under this Order. Then, before producing the  
14 specified documents, the Producing Party must affix the "CONFIDENTIAL" or OR  
15 "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES ONLY" legend to each page  
16 that contains Protected Material. If only a portion or portions of the material on a page  
17 qualifies for protection, the Producing Party also must clearly identify the protected  
18 portion(s) (e.g., by making appropriate markings in the margins).

19 (b) for testimony given in depositions that the Designating Party  
20 identify the Disclosure or Discovery Material on the record, before the close of the  
21 deposition all protected testimony.

22 (c) for information produced in some form other than documentary  
23 and for any other tangible items, that the Producing Party affix in a prominent place  
24 on the exterior of the container or containers in which the information is stored the  
25 legend "CONFIDENTIAL OR "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES  
26 ONLY." If only a portion or portions of the information warrants protection, the  
27 Producing Party, to the extent practicable, shall identify the protected portion(s).

1           4.3    Inadvertent Failures To Designate. If timely corrected, an inadvertent  
2 failure to designate qualified information or items does not, standing alone, waive the  
3 Designating Party's right to secure protection under this Order for such material. Upon  
4 timely correction of a designation, the Receiving Party must make reasonable efforts  
5 to assure that the material is treated in accordance with the provisions of this Order.

6       **5. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

7           5.1    Timing Of Challenges. Any Party or Non-Party may challenge a  
8 designation of confidentiality at any time that is consistent with the Court's  
9 Scheduling Order.

10          5.2    Meet And Confer. The Challenging Party shall initiate the dispute  
11 resolution process under Local Rule 37.1 et seq.

12          5.3    The burden of persuasion in any such challenge proceeding shall be on  
13 the Designating Party. Frivolous challenges, and those made for an improper purpose  
14 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may  
15 expose the Challenging Party to sanctions. Unless the Designating Party has waived or  
16 withdrawn the confidentiality designation, all parties shall continue to afford the  
17 material in question the level of protection to which it is entitled under the Producing  
18 Party's designation until the Court rules on the challenge.

19       **6. ACCESS TO AND USE OF PROTECTED MATERIAL**

20          6.1    Basic Principles. A Receiving Party may use Protected Material that is  
21 disclosed or produced by another Party or by a Non-Party in connection with this  
22 Action only for prosecuting, defending, or attempting to settle this Action. Such  
23 Protected Material may be disclosed only to the categories of persons and under the  
24 conditions described in this Order. When the Action has been terminated, a Receiving  
25 Party must comply with the provisions of section 13 below (final disposition).

26          Protected Material must be stored and maintained by a Receiving Party at a  
27 location and in a secure manner that ensures that access is limited to the persons  
28 authorized under this Order.

1           6.2    Disclosure Of “CONFIDENTIAL” Information Or Items. Unless  
2 otherwise ordered by the court or permitted in writing by the Designating Party, a  
3 Receiving Party may disclose any information or item designated “CONFIDENTIAL”  
4 only to:

5                 (a)   the Receiving Party’s Outside Counsel of Record in this Action, as  
6 well as employees of said Outside Counsel of Record to whom it is reasonably  
7 necessary to disclose the information for this Action;

8                 (b)   the officers, directors, and employees (including House Counsel)  
9 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

10                 (c)   Experts (as defined in this Order) of the Receiving Party to whom  
11 disclosure is reasonably necessary for this Action and who have signed the  
12 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13                 (d)   the court and its personnel;

14                 (e)   court reporters and their staff;

15                 (f)   professional jury or trial consultants, mock jurors, and Professional  
16 Vendors to whom disclosure is reasonably necessary for this Action and who have  
17 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18                 (g)   the author or recipient of a document containing the information or  
19 a custodian or other person who otherwise possessed or knew the information;

20                 (h)   during their depositions, witnesses ,and attorneys for witnesses, in  
21 the Action to whom disclosure is reasonably necessary provided: (1) the deposing  
22 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they  
23 will not be permitted to keep any confidential information unless they sign the  
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed  
25 by the Designating Party or ordered by the court. Pages of transcribed deposition  
26 testimony or exhibits to depositions that reveal Protected Material may be separately  
27 bound by the court reporter and may not be disclosed to anyone except as permitted  
28 under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

**6.3 DISCLOSURE OF "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES ONLY" INFORMATION OR ITEMS.** Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY" only to:

(a) the Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(c) the court and its personnel;

(d) private court reporters and their staff to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(e) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

(f) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information; and

(g) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

**7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
IN OTHER LITIGATION**

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as

“CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY,” that party must:

(a) promptly notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL -- ATTORNEYS’ EYES ONLY” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

**8. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE  
PRODUCED IN THIS LITIGATION**

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -- ATTORNEYS' EYES ONLY." Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party's confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party's confidential information, then the party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the non-party shall bear the burden and expense of seeking protection in this court of its Protected Material.

#### **9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and

1 Agreement to Be Bound" that is attached hereto as Exhibit A.

2

3 **10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**

4 **PROTECTED MATERIAL**

5 When a Producing Party gives notice to Receiving Parties that certain  
6 inadvertently produced material is subject to a claim of privilege or other protection,  
7 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil  
8 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure  
9 may be established in an e-discovery order that provides for production without prior  
10 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the  
11 parties reach an agreement on the effect of disclosure of a communication or  
12 information covered by the attorney-client privilege or work product protection, the  
13 parties may incorporate their agreement in the stipulated protective order submitted to  
the court.

14 **11. MISCELLANEOUS**

15 11.1 Right To Further Relief. Nothing in this Order abridges the right of any  
16 person to seek its modification by the Court in the future.

17 11.2 Right To Assert Other Objections. By stipulating to the entry of this  
18 Protective Order no Party waives any right it otherwise would have to object to  
19 disclosing or producing any information or item on any ground not addressed in this  
20 Stipulated Protective Order. Similarly, no Party waives any right to object on any  
21 ground to use in evidence of any of the material covered by this Protective Order.

22 11.3 Filing Protected Material. A Party that seeks to file under seal any  
23 Protected Material must comply with Civil Local Rule 79-5. Protected Material may  
24 only be filed under seal pursuant to a court order authorizing the sealing of the  
25 specific Protected Material at issue. If a Party's request to file Protected Material  
26 under seal is denied by the court, then the Receiving Party may file the information in  
27 the public record unless otherwise instructed by the court.

28 **12. FINAL DISPOSITION**

1           After the final disposition of this Action, as defined in paragraph 4, within 60  
2 days of a written request by the Designating Party, each Receiving Party must return  
3 all Protected Material to the producing party or destroy such material. As used in this  
4 subdivision, “all Protected Material” includes all copies, abstracts, compilations,  
5 summaries, and any other format reproducing or capturing any of the Protected  
6 Material. Whether the Protected Material is returned or destroyed, the Receiving Party  
7 must submit a written certification to the Producing Party (and, if not the same person  
8 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by  
9 category, where appropriate) all the Protected Material that was returned or destroyed  
10 and (2)affirms that the Receiving Party has not retained any copies, abstracts,  
11 compilations, summaries or any other format reproducing or capturing any of the  
12 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an  
13 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,  
14 legal memoranda, correspondence, deposition and trial exhibits, expert reports,  
15 attorney work product, and consultant and expert work product, even if such materials  
16 contain Protected Material. Any such archival copies that contain or constitute  
17 Protected Material remain subject to this Protective Order as set forth in Section 4  
18 (Duration).

19           **13. VIOLATION**

20           Any willful violation of this Order may be punished by civil or criminal  
21 contempt proceedings, financial or evidentiary sanctions, reference to disciplinary  
22 authorities, or other appropriate action at the discretion of the Court.

23           ///

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26           ///

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28           ///

1                   **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**  
2

3                   Dated: November 20, 2017

Respectfully submitted,

WINSTON & STRAWN LLP

5                   By:     /s/ Amanda L. Groves

Amanda L. Groves  
Natalie L. Arbaugh  
Shawn R. Obi  
Attorneys for Defendant  
HINT, INC.

9                   Dated: November 20, 2017

JOSEPH FARZAM LAW FIRM

10                  By:     /s/ Matthew Evans

Joseph S. Farzam  
Matthew Evans  
Attorneys for Plaintiff  
LISA KIM MADRIGAL

15                  FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

17                  DATED: November 21, 2017



19                  \_\_\_\_\_  
Hon. Michael R. Wilner  
20                  UNITED STATES MAGISTRATE JUDGE

**EXHIBIT A**

## **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_, of \_\_\_\_\_, declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court For The Central District Of California on \_\_\_\_\_ in the case of *Madrigal v. Hint, Inc.*, Case No. 17-cv-02095-VAP-MRW. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this order. I further agree to submit to the jurisdiction of the United States District Court For The Central District Of California for the purpose of enforcing the terms of this stipulated protective order, even if such enforcement proceedings occur after termination of this action. I hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_